

Joint Tenancy

Parties

Any number of persons (can be husband and wife).

Division

Ownership interest must be equal.

Title

There is only one title to the whole property. (Joint ownership in undivided equal shares.)

Possession

Equal right of possession. A joint tenant can be in exclusive possession of the property or he can lease his interest to a third party without affecting the nature of the joint tenancy. Such lease will terminate upon the death of the lessor joint tenant, with the surviving joint tenants taking the interest therein.

Conveyance

Conveyance by one co-owner without the others breaks his joint tenancy.

Purchaser's Status

Purchaser will become a tenant in common with the other co-owners in the property.

Death

If more than two joint tenants, upon the death of one joint tenant, title to the property passes to the surviving joint tenants by operation of law who hold title to the property in equal undivided shares to the exclusions of the heirs and creditors of the deceased joint tenant. If there are only two joint tenants and one joint tenant dies, the survivor holds title to the property as his sole and separate property. Joint tenancy ownership cannot be disposed of by testamentary disposition and it does not pass to the heirs of the decedent by intestate succession.

Successor's Status

Upon death of one joint tenant, survivor joint tenant(s) continue in ownership of entire property including share of the deceased joint tenant. Surviving joint tenant(s) continue to own entire title, including former title interest of the deceased joint tenant.

Creditor's Rights

Mortgage or deed of trust executed by one joint tenant or a judgment lien against interest of one joint tenant, does not sever joint tenancy or affect right of survivorship unless property is sold by foreclosure or execution sale prior to death of the party who incurred the lien.

Presumption

Must be expressly stated in deed (not orally).

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